especially in individual markets?

Does the FCC have any systematic plan to employ that is designed to ensure that while the consolidation continues, that localism and diversity are preserved?

(6) As you know, one television ownership rule that the Telecommunications Act did not change was the duopoly rule. The Act instructed the FCC to study the duopoly rule and recommend any changes. **I am interested in knowing your thoughts about the duopoly rule and whether or not the FCC may seek changes in the television duopoly rule.**

As you know, in 1992 the FCC made some modifications to its radio ownership rules, including a relaxation of the radio duopoly rule. In a 1994 report, the FCC concluded that since the changes had not been in effect for very long, it was hard to determine what affect, if any, the relaxation had no radio ownership. **Has the FCC done any further analysis on what affect the relaxation of radio duopoly rules have had on radio ownership? If so, would you expect similar trends if the television duopoly rule were liberalized as well?**

(7) It is my understanding that the FCC is currently contemplating making changes to the current television network/affiliate rules, including the "right-to-reject" rule. The right-to-reject rule protects the right of local affiliates to be the final arbiter as to what is shown on that local television and preempt network programming. In other words, this rule protects the local broadcaster from being forced into a contract that would trade away their right to preempt network programming.

I recall that a couple of years ago a local broadcaster from South Carolina decided that a particular network program, NYPD Blue, was not appropriate for his viewers and decided not to air that particular program. The right-to-reject rule preserves one of the most important principles in communications law in this country -- localism.

In a speech earlier this month, Chairman Hundt said that "several of the networks have contracts with their affiliates that appear to penalize preemptions of network program for economic reasons while permitting preemptions for public interest reasons." Chairman Hundt seemed to suggest that this fact means that the FCC should consider changing the rule.

Chairman Hundt, can you explain your comments? And further, can you explain to me why the FCC should consider making any changes to the right-to-reject rule and what those changes might be?

It seems to me that it would be absurd to either eliminate or change the right-to-reject rule because some networks are imposing penalizing contracts on local affiliates that exercise their right to preempt network programming. If the FCC is looking at anything in this area, it should be looking at imposing penalties or sanctions on the networks that seek to force programming on the local affiliates.

Mr. Hundt, I know you share my concern about television violence and I also want to applaud you for your efforts to require more educational programming for children. But it seems to me that one of the ways we can combat the problem of television violence and enhance educational programming for children is to restore more local input and control into television programming. We have seen what we get with the networks -- a constant diet of violence and degenerate behavior modeled for every child to see. If we return the power were it belongs -- the local level -- we may have better programming in the long run.

Attachment for Question #1

EXAMPLES OF LEC ABUSES OF THE NEGOTIATION PROCESS

- US West's tariff before the Colorado PUC would set the wholesale rate for local exchange resale $3 per line higher than currently charged to retail residential customers.

- US West is taking every state decision it is unhappy with to court. It has already gone to court in:

  A. Arizona - arguing at the Supreme Court that the Arizona Constitution guarantees its exclusive local monopoly.

  B. Colorado - claiming that the local competition rules established by the Colorado Commission exceed the PUC's statutory jurisdiction, authority, purposes and limitations.

  C. Utah - arguing at the Supreme Court that new entrants should not be permitted to determine the service they wish to provide nor the geographic territory they wish to serve.

  D. Washington - claiming that the basic residential rate mandated by the Washington Commission is unlawfully below cost.

- US West has filed tariffs for interconnection, unbundling and service resale in Colorado which are anti-competitive and do not meet the requirements of either the Act and the Colorado Rules. For example, the US West tariff does not unbundle the local switch, and restricts the purchase of unbundled network elements to "facilities-based providers." In addition, prices for interconnection and unbundled network elements are designed to recover total costs, and any revenues lost to competition. In other words, prices are designed to keep US West "whole." The tariffs fail to make all retail services available for resale as required by the Act.

- LCI filed a complaint with the Department of Justice against U S West for gross negligence in providing and maintaining access to U S West's service territory. LCI's complaint was prompted by a continuing series of incidents in which negligence on the part of U S West caused service interruptions and installation delays for LCI business and residential long-distance customers in the U S West region. In addition, U S West improperly routed long-distance calls made by LCI customers to the networks of other long-distance carriers.

- US West is augmenting its total service long run incremental cost (TSLRIC) cost studies in its states to include a greater proportion of joint and common costs. Thus, if it is ordered to file a TSLRIC cost study, it will be able to develop rates from a higher cost base.

- US Telco has four hours of taped recording in which SWB allegedly makes anti-competitive statements to US Telco customers, such as what [US Telco] is doing is a fraud, probably illegal and [the customer] should call the police. US Telco is attempting to resell local service in residential multi-tenant buildings.

- A billing and collection case, National Billing and Collections vs. Southwestern Bell was settled but, unfortunately, the settlement contains a very strict nondisclosure agreement. The public file, however, contains many allegations of SWB tariff violations and anti-competitive behavior, e.g., SWB operators making disparaging remarks about the company to whom it was providing B&C service, along with supporting testimony and exhibits.

- The Inquiry of the General Counsel into the Marketing and Business Practices of Southwestern Bell Telephone Company, Docket No. 11487 was settled in part, withdrawn in part. This was a PUC inquiry into allegations of anti-competitive acts and affiliate practices of SWB in its dealings with its voice messaging competitors of its affiliate Southwestern Bell Messaging Services, Inc. The allegations basically contended that SWB gave competitive providers of voice message service inferior service/connections while promoting its affiliate's voice messaging service. The inquiry did not get very far, however, as questions about FCC preemption lead the PUC General Counsel to withdraw the more serious parts of the case. The settlement addresses start up problems created by SWB practices start up problems of voice messaging services created by SWB.

- Southwestern Bell Mobile Systems has stonewalled on providing In Touch connections to SBMS' cellular POP. In Touch has an innovative prepaid service they could provide in SBMS provided the connection. SBMS has strung In Touch along for months, at one point SBMS indicated they might do it, only to change their minds and months later say its not in their business plan.

- The PUC proposed and adopted an expanded interconnection rule (§23.92) for special access and private line services that mirrors the FCC's expanded interconnection decisions. SWB opposed the rule's adoption on several grounds (unconstitutional, ratemaking in a rulemaking, etc.) and has continued to fight it in state court. District Court granted the PUC's motion for summary judgment and SWB has appealed (to state district court) the PUC's November 1994 amendmetnts to the rule which allow switched transport interconnection.

- Bell Atlantic proposes to limit the number of unbundled loops purchased by a new entrant to 25 per week for the first three months of competition. Since many business customers require hundreds of loops, a new entrant could not offer competitive local service to large customers on a timely basis. This would effectively close off this important segment of the market to competitors.

- Bell Atlantic refuses to provide cost support in Maryland.

- In Pennsylvania, Bell Atlantic has proposed a network unbundling tariff which unbundles only the loop and the port, but does not unbundle the local switch despite the requests of AT&T, MCI, CompTel and the Pennsylvania Commission staff. Bell Atlantic's rationale is that "facilities-based competitors only need an unbundled loop and port to provide local phone service."

- Ameritech technicians, salespersons, service representatives, and directory assistance operators are claiming that the customer will not be able to obtain certain services, or that the quality of services will be poor, if customers switch to Brooks Fiber Communications.

- In December 1995, Ameritech instituted a "PIC freeze program." Under this program, customers were encouraged to complete and return a bill insert directing Ameritech to "freeze" customers' 1+ interLATA and intraLATA carriers. Although Ameritech promoted this program as a consumer protection initiative, the program was obviously designed to protect Ameritech's intraLATA toll market share (IntraLATA presubscription was being implemented in Illinois during April of 1996 and Ameritech's bill insert failed to inform customers that they would soon have a choice in selecting their 1+ intraLATA carrier). The Illinois Commerce Commission (ICC) subsequently determined that Ameritech's management recognized that the bill insert could be construed as a barrier to competition designed to minimize the number of intraLATA customer

"defectors." The ICC found the bill insert "misleading, discriminatory and anti-competitive."

- In recent contract negotiations with Southwestern Bell (SBC), LCI has been asked to sign a Billing and Collection (B&C) contract that would permit SBC to treat its subsidiary that provides long-distance service different than other interexchange carriers. Southwestern Bell claims that services such as B&C are not subject to the Act and, therefore, it can provide B&C services to its long-distance affiliate on terms that are materially different than offered to its long distance competitors.

- BellSouth is requiring that LCI sign a non-disclosure agreement that would prohibit LCI from disclosing any discussions and conversations within the context of negotiations as authorized under Sections 251 and 252 of the Telecommunications Act of 1996 to any state or federal regulatory, judicial or administrative agency.

- On April 22, 1996, LCI faxed a letter to NYNEX requesting Centrex pricing for resale. On April 30, 1996, LCI made a trip to NYNEX to discuss local resale and the requested pricing for Centrex. On May 2, LCI sent a second request to NYNEX for Centrex pricing. NYNEX claimed that they had not received LCI's first request. On May 14, 1996, during a conference call between LCI and NYNEX, NYNEX claimed that they still had not received LCI's request for Centrex pricing. LCI provided NYNEX with the information for a third time. LCI finally received proposed Centrex pricing from NYNEX on June 7, 1996, 47 days after LCI's initial request for pricing. In addition, NYNEX is not willing to provide LCI with wholesale pricing on their retail Centrex service as required under Section 251(c)(4) of the Telecommunications Act.

- PacBell, despite its obvious knowledge of the California regulatory scheme, has refused to provide Cable & Wireless, Inc. (CWI) with the resale services contained in its tariff. Language that PacBell has inserted in its resale tariff allows it to refuse to provide service until it receives verification that CWI's tariff has been lawfully filed with the CPUC. For the time being, the CPUC has agreed to provide verbal confirmation to PacBell that a carrier's tariff is in effect. However, this requires that the new carrier engage in an effort to coordinate and follow up on communications between PacBell and CPUC staff members who (1) are often unavailable to answer their telephones and (2) acknowledge that their work load may prevent them from providing verification of the tariff filing in a timely manner.

GENERALLY

There are also general positions taken by ILECs in negotiations which effectively doom the negotiations to failure. For example:

- Demanding extensive non-disclosure agreements demanding that negotiation progress not be shared with parties outside the negotiation, including state and federal regulators.

- Refusing to provide cost studies.

- Refusing to make key people available for meetings.

- Delaying the process through cancelling meetings or stating that "we will get back to you " and not doing so for weeks.

- Refusing to discuss access issues, claiming access is not covered by the Act.

- Attempting to sign agreements with small carriers they believe cannot threaten them competitively, but can be used as "evidence" that the Section 271 competitive checklist has been met, and therefore, they should be permitted into the in-region long distance market. At the same time, they stonewall negotiations with larger IXCs, who they intend to keep out of the local market.

LOCAL RESALE NEGOTIATIONS

NYNEX

* In March 1996, LCI formally requested commencement of local service negotiations pursuant to Sections 251 & 252 of the Act.

* LCI repeatedly requested NYNEX's system specifications, LCI received first documentation near the end June, 1996.

* LCI has repeatedly requested pricing information from NYNEX, however, NYNEX has been unwilling to discuss resale pricing until after their tariff is filed on July 1, 1996.

PACIFIC BELL

* In March 4, 1996, LCI formally requested commencement of local service negotiations pursuant to Sections 251 & 252 of the Act.

* LCI encountered significant delays, the first conference call occurred approximately 75 days after LCI's initial request for negotiations.

* Individuals representing Pacific Bell on the first conference call appeared to have no understanding of Pacific's local service resale program and were unaware of the purpose of the conference call. While the individuals from Pacific could not answer our questions, they told LCI that it could find answers to many of its questions in Pacific's 500+ page local service handbook, a document that the individuals from Pacific had not personally reviewed. During LCI's second conference call with Pacific, Pacific, apologized for the delays as a result of Pacific Bell's lack of preparedness for the initial conference call. While Pacific was responsive in getting LCI some of the information it requested on the conference call, negotiations were already 106 days into the 135 day arbitration window.

NOTE: LCI intends to reinitiate formal negotiations with each local exchange carrier. Prior to reinitiating formal negotiations, LCI will continue to negotiate on an informal basis.

BELL ATLANTIC

* In March 1996, LCI formally requested commencement of local service negotiations pursuant to Sections 251 & 252 of the Act. In addition, LCI made telephone calls in an attempt to establish an initial meeting.

* In early May 1996, Bell Atlantic contacted LCI, LCI returned Bell Atlantic's call, however, Bell Atlantic never responded to LCI's follow-up calls.

* In mid-June, approximately 97 days after LCI's request for negotiations, LCI received a copy of the Bell Atlantic-Virginia and Jones Telecommunications of Virginia agreement as well as a general resale document as a starting point for negotiations.

GTE

* LCI has made several attempts to conduct an initial meeting between our companies relative to LCI's March letter requesting negotiations pursuant to Sections 251 and 252 of the Act. GTE has been unresponsive, indicating that it did not want to meet until the end of June or early July 1996.

CINCINNATI BELL

* In March 1996, LCI formally requested commencement of local service negotiations pursuant to Sections 251 & 252 of the Act. In addition, LCI made several phone calls in an attempt to establish an initial meeting.

* Negotiations were initially delayed based upon Cincinnati Bell's position that negotiations could not occur until after state and federal regulators had completed their rulemaking activities mandated by the Act.

* An initial meeting was held in early June 1996, approximately 96 days after LCI's initial request for negotiations. The first meeting was worthless, Cincinnati Bell was unable to provide LCI with any information regarding systems or pricing.

NOTE: LCI intends to reinitiate formal negotiations with each local exchange carrier. Prior to reinitiating formal negotiations, LCI will continue to negotiate on an informal basis.